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Perry Russell and Sandra Walker*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PERCEY LEE RIC'E,

Plaintiff,

v.

PERRY RUSSELL, *et al.*,

Defendants.

Case No. 3:23-cv-00339-MMD-CLB

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
REPLY IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT
(ECF NO. 31)
[FIRST REQUEST]**

Defendants, Perry Russell and Sandra Walker, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Mayra Garay, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby Move for a 14-day Extension of Time to File their Reply in Support of their Motion for Summary Judgment. ECF No. 31. This is Defendants' First Request for an extension of time for the subject reply deadline.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On March 17, 2025, Defendants filed their motion for summary judgment seeking dismissal of this lawsuit. ECF No. 31. Plaintiff Percy Lee Ric'e (Ric'e) filed a motion for an extension of time to respond to Defendants' motion on April 1, 2025. ECF No. 40. This Court granted Ric'e's motion in part, granting Ric'e a 21-day extension, instead of a 45-day extension as Ric'e requested. ECF No. 41 at 1. Ric'e seems to have filed his response to

1 Defendant's motion, moving to dismiss Defendants' motion for summary judgment on
2 April 28, 2025. ECF No. 42. Defendants seek a 14-day extension of time to file their reply
3 in support of the motion for summary judgment, which is currently due on May 5, 2025, for
4 good cause. This is Defendants' first request to extend the subject deadline.

5 **II. LEGAL STANDARD AND ARGUMENT**

6 A request to extend unexpired deadlines in the scheduling order must be premised
7 on a showing of good cause. *Lynch v. Hernandez*, Case No. 2:21-cv-01981-ART-DJA, 2024
8 WL 5040434, at *2 (D. Nev. Nov. 7, 2024) (citing Fed. R. Civ. P. 16(b)(4); Local Rule 26-3).
9 Under Local Rule 26-3, a motion to extend a date set by an order must, in addition to
10 satisfying the requirements of Local Rule IA 6-1, be supported by a showing of good cause
11 for the extension. *Tankersley v. MGM Resorts International*, Case No. 2:20-cv-00995-RFB-
12 DJA, 2022 WL 1395457, at *4 (D. Nev. Apr. 18, 2022) (citing LR 26-3). The good cause
13 standard primarily considers the diligence of the party seeking the extension. *Price v. Sims*,
14 Case No. 2:21-cv-01438-CDS-DJA, 2023 WL 6539784, at *2 (D. Nev. Sept. 22, 2023) (citing
15 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 699 (9th Cir. 1992)). The scheduling
16 order can be modified if it cannot reasonably be met despite the diligence of the party
17 seeking the extension. *Castronovo-Flihan v. State Farm Mutual Automobile Insurance*
18 *Company*, Case No. 2:20-cv-01197-JCM-DJA, 2021 WL 5413886, at *1 (D. Nev. Sept. 17,
19 2021) (citing *Mammoth Recreations, Inc.*, 975 F.2d at 699).

20 This is Defendants' first request for an extension of the reply deadline. Good cause
21 exists for this request because the response which is titled as a "motion to dismiss" caused
22 some confusion as to whether Defendants should interpret this motion as an opposition or
23 separate motion. *See* ECF No. 42. If this Court interprets Ric'e's motion as a separate
24 motion, then Defendants would have 14-days to file an opposition instead of a reply in
25 support of, which is due 7 days after an opposition is filed. Assuming this filing is Ric'e's
26 opposition, as this Court only granted an extension up to April 28, 2025, Defendants
27 respectfully request more time to thoroughly review the opposition and prepare their reply
28 because Ric'e filed several affidavits and exhibits which were not previously disclosed

1 during discovery. If this Court interprets this filing as a separate motion, then Defendants
2 only seek a 7-day extension to oppose Ric'e's motion to dismiss their motion for summary
3 judgment.

4 Ric'e will not be prejudiced by the requested extension of time because assuming this
5 Court interprets this filing as his opposition and not a separate motion, Ric'e is not entitled
6 to a reply in support of his arguments set forth therein. Further, Ric'e has previously
7 requested and was granted an extension to oppose Defendants' motion for summary
8 judgment.

9 **III. CONCLUSION**

10 Based upon the foregoing, Defendants believe good cause exists and ask this Court
11 to grant the requested 14-day extension of the reply in support of motion for summary
12 judgment deadline, thus making the new deadline May 19, 2025.

13
14 DATED this 5th day of May 2025.

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16 AARON D. FORD
17 Attorney General

18 By: /s/ Mayra Garay
19 MAYRA GARAY (Bar No. 15550)
20 Deputy Attorney General

21 *Attorneys for Defendants*

22 **IT IS SO ORDERED.**

23 **DATED:** May 6, 2025

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26 _____
27 UNITED STATES MAGISTRATE JUDGE
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